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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4369

13 **MICHAEL M. CASEY**
4859 Alta Drive
Sacramento, CA 95822

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **95782**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about January 29, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 95782 to Michael M. Casey (Respondent). The registration was in full
24 force and effect at all times relevant to the charges herein, and will expire on December 31, 2013,
25 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4301 of the Code states in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

...

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

8 5. California Code of Regulations, Title 16, section 1770, states:

9 "For the purpose of denial, suspension, or revocation of a personal or facility license
10 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
11 crime or act shall be considered substantially related to the qualifications, functions or duties of a
12 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
13 licensee or registrant to perform the functions authorized by his license or registration in a manner
14 consistent with the public health, safety, or welfare."

15 6. Section 125.3 of the Code states, in pertinent part, that the Board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **PRIOR CONVICTION**

20 7. On or about July 3, 2007, in a prior criminal proceeding entitled *People v. Michael M.*
21 *Casey* in Sacramento County Superior Court, Case Number 07T02359, respondent was convicted
22 for violating Vehicle Code section 23152(b) (driving with a BAC over .08) with an enhancement
23 under section 23578 (BAC .15 or above) (.21), a misdemeanor.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Criminal conviction)**

26 8. Respondent is subject to disciplinary action under section 4301 (l) in that he has been
27 convicted of a crime which is substantially related to the qualifications, functions, and duties of a
28 registered pharmacy technician on or about January 24, 2012 in the case of *People of the State of*

1 *California v. Michael Maxwell Casey*, Sacramento County Superior Court case no. 11T06524, he
2 was convicted after his plea of Nolo Contendere of one count of violating Vehicle Code section
3 23152(b)(driving with an BAC over .08) The circumstances are as follows:

4 9. On December 9, 2011, respondent was arrested after witness reported a drunk driver
5 in the drive-thru lane of a Jack-in-the-Box restaurant across the street from the Sacramento Police
6 Department. When contacted, respondent had an open beer in the center console of his vehicle,
7 refused to cooperate by completing field sobriety tests, and subsequently submitted breath tests
8 registering .25 BAC.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Multiple convictions involving consumption of alcoholic beverage)**

11 10. Respondent is subject to disciplinary action under section 4301 (k) in that he has been
12 convicted of more than one misdemeanor involving the consumption of alcohol as set forth in
13 paragraphs 5 and 6 above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Dangerous or injurious use of alcohol)**

16 11. Respondent is subject to disciplinary action under section 4301(h) in that he has used
17 alcohol to the extent or in a manner as to be dangerous or injurious to himself or to the public as
18 set forth in paragraphs 5 and 6 above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Pharmacy issue a decision:

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 95782,
23 issued to Michael M. Casey

24 2. Ordering Michael M. Casey to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

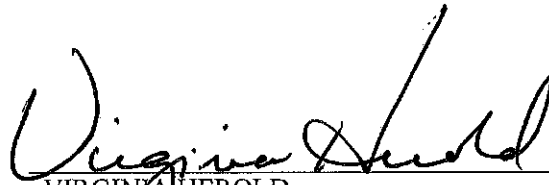
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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/14/12



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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